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United States General Accounting Office
Washington, DC 20548

Office of
General Counsel

In Reply
Refer to: B-189084

[Request for Reconsideration of Relief Denial For Loss of Government Funds]
JAN 15 1980
Mr. Dean K. Crowther
Director of Finance
Office of the Secretary
Department of Agriculture
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DLU 3620

Dear Mr. Crowther:

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This is in response to a letter from your office transmitting Ms. Barbara A. Grant's request for review and reconsideration of our ruling B-189084, January 3, 1979, that denied her relief for the loss of \$650 in Government funds that were in her charge while she was a cashier of the Food and Nutrition Service (FNS) Department of Agriculture.

The provisions of 31 U.S.C. § 82a-1 provide authority and set forth the criteria under which this Office may grant relief to accountable officers from liability for losses. We have delegated our authority to the heads of Federal departments and agencies under this provision to administratively resolve irregularities in the accounts of accountable officers involving losses not exceeding \$500, providing the standards of this Office regarding relief for accountability of funds are applied. B-161457, August 1, 1969 and 54 Comp. Gen. 112 (1974).

In her request that we reconsider our earlier denial of relief, Ms. Grant states that our Office has determined that she is only responsible for the loss of \$400 of the \$650 total shortage. She therefore contends that we should accept as conclusive the Department of Agriculture's recommendation that she be relieved of liability because the amount is less than \$500. Apparently, Ms. Grant has been misinformed, because this Office did not make a determination to reduce the amount of loss for which she is responsible from the original \$650. While we pointed out a discrepancy between the Systems Branch audit conducted January 1, 1975 which found a total shortage of \$450 and the Audit Committee's audits of September 19 and October 3, 1975 which found a cash shortage of \$650, we noted that the Audit Committee attributed the discrepancy to the lack of adequate records. Accordingly, the amount of loss for which she is responsible exceeds the \$500 amount that Federal agency and department heads may administratively resolve without reference to this Office. Moreover, even when the amount is within the \$500 ceiling,



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the agency or department should apply the standards of this Office in granting relief from liability. For the reasons outlined below, we have determined that the Department of Agriculture failed to follow our standards in recommending relief in this case and hence the result should be the same even if the amount of liability was \$400 as erroneously asserted.

Under provisions contained in 31 U.S.C. § 82a-1, relief may not be granted unless the agency head determines that the loss occurred without fault or negligence of the employee and we concur in that determination. We have considered the additional information that Ms. Grant has provided and we are still unable to make this finding. A Government employee charged with the handling of public monies is expected to exercise the highest degree of care in the performance of his duty. B-186922, April 8, 1977. The degree of care required exceeds the lesser standard of applying such reasonable care and diligence as a cautious, prudent, and diligent person would apply to his own affairs. B-178953, August 8, 1973. See also B-182386, April 24, 1975; cf: 54 Comp. Gen. 112 (1974). This Office cannot grant relief if there is any evidence of negligence on the part of the accountable officer, when that negligence was directly or indirectly the proximate cause of the loss.

The presumption that accountable officers have been negligent when otherwise unexplained physical loss of funds for which they are responsible occurs can be rebutted by evidence to the contrary. 54 Comp. Gen. 112, 115 supra. The burden, however, is on the accountable officer to present creditable evidence showing that the loss was not occasioned by any negligence on his or her part. In the present case, we find that Ms. Grant has failed to present evidence showing that she was free from negligence in connection with the loss.

Ms. Grant contends that although she received a copy of the Treasury Department publication, Manual of Procedures and Instructions for Cashier Operation, which contains extensive guidance for cashiers, she was not instructed in standardized record keeping procedures for accounting for the funds in her charge. Also, Ms. Grant questions the basis for the Department of Agriculture's Audit Committee's finding that she failed to maintain adequate records when she was not instructed in this phase of her duties.

Ms. Grant's statement of October 13, 1976, in connection with the Department of Agriculture's investigation of the loss, does not support the claim that she received no record keeping instructions. In this connection, she stated:

"In February 1973, Mr. Blair [System Accountant] along with Joseph Taft, System Accountant, made a cash verification. Blair indicated to me at that time that I would have to keep records from then on. They set up the records for me whereas I would keep a copy of the AD-615 to match with the printout I received from the Disbursing Center indicating that I would be receiving a reimbursement check. Then when I received the check, I would note the date and amount on the printout and match with the copy of the AD-615, and credit the fund. Somehow, this procedure got off the track because of the simple reason I was receiving checks without the printout or vice-versa."

Also in her statement during the Department of Agriculture investigation, Ms. Grant attributed her failure to keep accurate records to other duties that consumed her working hours. She explained as follows:

"During the period I was the cashier, I had other duties. I was Secretary to the Branch Chief. This office is considered as a two girl office. We had been without a clerk-typist for at least a month. I had to carry out the duties of secretary for my boss and clerical duties for others in the Branch. I think the fund was out-of-balance because I did not have enough time to spend on reconciling or checking to see whether I had received all of my reimbursement checks."

In the above-quoted statements, Ms. Grant has admitted that she received instruction in record keeping procedures and that other duties prevented her from properly accounting for the funds in her charge. Ms. Grant should have given first priority to accounting for and safeguarding the funds in her care and the admitted failure to do that is negligence on her part.

Next Ms. Grant takes issue with information provided by the Department of Agriculture, indicating that there could have been extenuating circumstances bearing on the shortage. The Department related these circumstances as follows:

"About the time the shortage occurred there was a change in the system for replenishing imprest fund cash. Instead of filing a reimbursement voucher directly with Treasury's Washington Regional Disbursing Office and having the check picked up by messenger,

all vouchers were submitted to the Department's National Finance Center located in New Orleans, LA and checks were mailed to cashiers from the Treasury's Regional Disbursing Office in Kansas City, KS. This change exposed the checks to a number of persons not previously involved."

We addressed these extenuating circumstances in our January 3, 1979, ruling that denied relief. In her request for review and reconsideration of our ruling, Ms. Grant now states that: "From May 1973, until the time I was relieved of my duties as cashier, I was under the NFC [National Finance Center] replenishment system. Therefore, the system was in effect more than a year before the shortage occurred." Thus Ms. Grant's statement indicates that the "extenuating circumstances" did not result from changes in the replenishment system as suggested by the Department of Agriculture. Obviously the Department set forth these facts in an attempt to explain Ms. Grant's actions and present equitable grounds for granting her relief. The absence of these extenuating circumstances, as alleged by Ms. Grant, would not in any event affect our previous ruling that denied her relief.

Next, Ms. Grant points out that our previous ruling failed to mention that another loss involving a replenishment check in the amount of \$250, which was not part of the \$650 here involved, subsequently was found to have been stolen, forged and cashed by a thief. She believes that we should have granted her relief on the possibility that her loss could have been caused by similar circumstances. The reason we failed to consider that her loss was caused by a similar event was because she submitted no creditable evidence indicating that it was likely that her loss was caused by the theft of replenishment checks. Moreover, Ms. Grant negligently failed to keep adequate records that would have enabled us to reconcile replenishment checks against deficiencies in her account. It would be inappropriate to conclude without any evidence that her loss was caused by the loss or theft of one or more replenishment checks, when the very fact that there is no such evidence is attributable to Ms. Grant's failure to keep adequate records.

Finally, Ms. Grant contends that the findings of the Department's Audit Committee are incomplete because, she feels, more could have been done to determine whether or not she received the replenishment checks. It is not generally this Office's role to determine if an agency has taken enough steps to determine that there has been a loss or where that loss occurred. However, we are not aware of any reason in this case to fault the Audit Committee's actions. As we just noted, it was her failure to keep the proper records which now prevents reasonable verification of Ms. Grant's contention that she may not have received all the replenishment checks she requested.

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In these circumstances the Government need not expend substantially more money than was lost trying to prove or disprove her contention.

Based on the facts contained in the present record, we must affirm our earlier denial of relief for Ms. Grant in connection with a \$650 shortage in her imprest fund account.

Sincerely yours,

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Milton J. Socolar
General Counsel